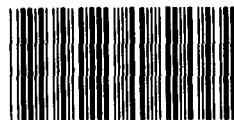


April 1991

FARMERS HOME  
ADMINISTRATION

Information on  
Appeals of Farm and  
Housing Loan  
Decisions



143602

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Resources, Community, and  
Economic Development Division

B-243531

April 9, 1991

The Honorable Bob Wise  
Chairman, Government Information,  
Justice, and Agriculture Subcommittee  
Committee on Government Operations  
House of Representatives

The Honorable Mike Espy  
House of Representatives

In 1988, as required by the Agricultural Credit Act of 1987 (P.L. 100-233, Jan. 6, 1988), the Farmers Home Administration (FmHA) established a new appeals process for use by individuals dissatisfied with FmHA loan decisions. This report is in response to your February 20, 1990, letter expressing concern about the new process, including FmHA's implementation of the process and the treatment of minorities in the process. As a result of agreements reached with the Subcommittee office, this report discusses (1) the status of FmHA farmer loan program and rural housing loan program appeals; (2) the timeliness of holding appeal hearings and implementing appeal decisions; and (3) the results of minority and nonminority appeals. As you requested, we focused on appeals of FmHA farmer program and rural housing program decisions in three states—Arkansas, Mississippi, and Texas.

## Results in Brief

From July 1988, the inception of the current appeals process, through December 1989, individuals in Arkansas, Mississippi, and Texas filed 1,369 appeals of farmer program and rural housing program loan decisions. As of April 1990,<sup>1</sup> 62 percent of these appeals had received an FmHA hearing; 25 percent were concluded or withdrawn without a hearing for such reasons as appellants' failure to appear at the hearing; and about 13 percent had hearings pending. About half the hearing officers' decisions reversed or modified prior FmHA loan decisions. Primarily, loan decisions were reversed because FmHA officials (1) used outdated or otherwise inaccurate appraisals of the land or farm equipment that was used as collateral to secure a loan or (2) improperly serviced borrowers' loans, such as failing to issue timely or accurate delinquency notices.

<sup>1</sup>We used April 30, 1990, as a cut-off date for information related to the status and timeliness of appeals in order to obtain consistent data from the county, state, and national sources used to compile the information.

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For most appeals that had hearings, the time elapsed between receiving the appeal and holding the hearing exceeded the 45-day standard established by FmHA. On average, 4 months passed before hearing officers reviewed farmer program loan appeals and 2-1/2 months before they reviewed rural housing program loan appeals. FmHA county offices generally began implementing hearing officers' decisions in less time—53 percent of such actions were started within 20 days of the decisions and 78 percent were started within 45 days.

In the three states we examined, minorities filed 350 appeals; hearing officers had issued decisions on about 52 percent of these appeals. Nonminorities filed 1,019 appeals; hearing officers had issued decisions on about 58 percent. Overall, the data indicate comparable rates of reversals for minorities and nonminorities. Hearing officers reversed about 43 percent of the prior loan decisions for minorities and about 50 percent for nonminorities.

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## Background

FmHA, an agency of the U.S. Department of Agriculture (USDA), operates federal programs to assist family farmers and to provide rural housing. FmHA makes farm ownership, operating, and emergency loans and rural housing loans to individuals who cannot obtain credit elsewhere at reasonable rates and terms. FmHA also services these loans, including assisting in developing farm financial plans, collecting loan payments, and restructuring delinquent debt. Restructuring includes rescheduling and reamortizing loan payments, or reducing outstanding principal and accumulated interest.

The FmHA county office is the local contact point for individuals to apply for farmer program and rural housing program loans. For example, the FmHA county supervisor accepts farmer program loan application documents and is responsible for reviewing and verifying the information submitted in the application; determining, along with the county committee (a committee consisting of two members elected by local farmers and one member designated by FmHA), borrower eligibility to participate in the loan program; evaluating the applicant's repayment ability; and approving the application. The FmHA county supervisor is also responsible for servicing loans, including visiting borrowers and assisting them as needed. FmHA district directors provide guidance and supervision to county supervisors in making and servicing loans and are responsible for rural housing program foreclosure decisions.

Through an administrative appeal process, an FmHA applicant or existing borrower can appeal most adverse loan decisions made by FmHA county supervisors, county committees, and district directors. For example, denial of loan eligibility is an appealable decision, as are loan-servicing decisions involving restructuring delinquent debt. If an FmHA decision is reversed by an appeals hearing officer, the appellant does not necessarily receive the loan-making or loan-servicing action that was originally denied. Instead, FmHA is required to withdraw the adverse decision and reconsider the loan application. For example, the extent to which FmHA will restructure delinquent debt in part depends on the appraised value of loan collateral property. If a county office's loan-servicing decision involving debt restructuring is reversed because such an appraisal was outdated, FmHA would obtain a new appraisal and reconsider a delinquent borrower's loan-servicing application.

The Agricultural Credit Act of 1987 required the establishment of a national appeals staff within FmHA whose sole responsibility is to administer FmHA's process for handling appeals of loan-making and loan-servicing decisions. This staff, which operates independently of FmHA officials making program decisions, assumed responsibility for the administrative appeals process on July 12, 1988. Discrimination issues are not within the purview of the appeals staff but are handled by FmHA's Equal Opportunity Staff. This staff investigates discrimination allegations and refers cases that merit further review to USDA's Office of Advocacy and Enterprise.

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## Status and Reasons for Appeals

From July 12, 1988, through December 31, 1989, individuals in Arkansas, Mississippi, and Texas filed 1,369 appeals, of which 918 involved FmHA farmer program loan decisions and 451 involved rural housing program loan decisions. Information on the status of and reasons for appeals within each of these two loan programs follows.

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## Farmer Loan Program Appeals

As of April 1990, about 64 percent of the 918 farmer loan program appeals had been heard by FmHA appeals officials, 21 percent had been concluded or withdrawn without a hearing, and 15 percent had hearings pending. Hearing officers reversed or modified FmHA prior loan decisions in about 50 percent of the cases in which a hearing decision was issued. Table 1 summarizes the status and results of the farmer program appeals. (All tables in this report are based on information obtained from FmHA offices in Arkansas, Mississippi, and Texas and from the National Appeals Staff.)

**Table 1: Appeals of FmHA Farmer Program Loan Decisions, July 12, 1988-December 31, 1989**

	Arkansas	Mississippi	Texas	Total
<b>Decision category:</b>				
Loan-making	30	35	95	160
Loan-servicing	233	226	299	758
<b>Total</b>	<b>263</b>	<b>261</b>	<b>394</b>	<b>918</b>
<b>Appeal results:<sup>a</sup></b>				
Hearing held	154	150	282	586
Appeal concluded/withdrawn <sup>b</sup>	62	41	86	189
Hearing not held	47	70	26	143
<b>Total</b>	<b>263</b>	<b>261</b>	<b>394</b>	<b>918</b>
<b>Appeal decisions:<sup>a</sup></b>				
FmHA upheld	62	79	122	263
FmHA reversed	79	46	123	248
FmHA modified	2	3	7	12
Decision not finalized	11	22	30	63
<b>Total</b>	<b>154</b>	<b>150</b>	<b>282</b>	<b>586</b>

<sup>a</sup>As of April 30, 1990.

<sup>b</sup>Appeals were concluded or withdrawn without a hearing usually because appellants failed to appear at the hearing or reached prior agreement with FmHA.

As indicated in table 1, most appeals involved loan-servicing decisions. We examined 40 such appeals at 11 county offices within the three states we reviewed and found that the primary reasons for the appeals were (1) dissatisfaction with FmHA appraisals, which could affect the amount of debt reduction borrowers may receive in the agency's servicing of their delinquent loans, and (2) objection to FmHA's denial of loan servicing based on the applicant's failure to submit a servicing application within the time period specified in the Agricultural Credit Act of 1987. We also reviewed five appeals involving farmer program loan-making decisions at five county offices and found that the primary reason for appeals was disagreement with FmHA determinations regarding applicants' farming experience, and thus loan eligibility. To qualify for loans, applicants must have had training or actual experience in managing and operating a farm within 1 of the 5 years prior to loan application.

Hearing officers reversed prior loan decisions primarily because FmHA (1) used appraisals that were outdated, did not properly consider the condition of the property or equipment reviewed, or did not properly consider comparable properties; (2) could not support determinations that borrowers had not acted in "good faith" in meeting the terms of

their loan agreements with FmHA; or (3) used inaccurate income, expense, production, or asset values in evaluating the reasonableness of appellants' projections of farm production and finances.

## Rural Housing Loan Program Appeals

As of April 1990, about 58 percent of the 451 rural housing loan program appeals had been heard by FmHA appeals officials, 34 percent had been concluded or withdrawn without a hearing, and 8 percent had hearings pending. Hearing officers reversed or modified FmHA prior loan decisions in about 46 percent of the cases in which a hearing decision was issued. Table 2 summarizes the status and results of the rural housing appeals.

**Table 2: Appeals of FmHA Rural Housing Program Loan Decisions, July 12, 1988-December 31, 1989**

	Arkansas	Mississippi	Texas	Total
<b>Decision category:</b>				
Loan-making	60	77	29	166
Loan-servicing	67	161	57	285
<b>Total</b>	<b>127</b>	<b>238</b>	<b>86</b>	<b>451</b>
<b>Appeal results:<sup>a</sup></b>				
Hearing held	79	124	61	264
Appeal concluded/withdrawn <sup>b</sup>	39	91	23	153
Hearing not held	9	23	2	34
<b>Total</b>	<b>127</b>	<b>238</b>	<b>86</b>	<b>451</b>
<b>Appeal decisions:<sup>a</sup></b>				
FmHA upheld	40	63	30	133
FmHA reversed	36	51	25	112
FmHA modified	0	2	1	3
Decision not finalized	3	8	5	16
<b>Total</b>	<b>79</b>	<b>124</b>	<b>61</b>	<b>264</b>

<sup>a</sup>As of April 30, 1990.

<sup>b</sup>Appeals were concluded or withdrawn without a hearing usually because appellants failed to appear at the hearing or reached prior agreement with FmHA.

As indicated in table 2, most appeals involved loan-servicing decisions. We reviewed 10 such appeals at eight FmHA county offices and found that the primary reasons for appeals were to (1) prevent loan foreclosure actions and (2) seek reduced loan payments. We also reviewed 15 appeals involving rural housing program loan-making decisions at six county offices and found the primary reason for appeals involved FmHA's decisions to deny loans based on appellants' poor credit histories or projected inability to repay the loan.

Hearing officers reversed prior loan decisions primarily because FmHA (1) had improperly serviced appellants' loans, such as failing to deliver timely and accurate delinquency notices, or (2) had improperly considered appellants' credit histories, which in some cases resulted in incorrect conclusions that the borrower had a pattern of poor debt repayment.

## Timeliness of Appeals Process

While FmHA regulations state that a hearing should normally be held within 45 days after the appeals staff receives an appeal, we found that 677 of the 850 appeals that resulted in hearings exceeded that standard. On average, farmer program loan appeals took 122 days for a hearing and rural housing program loan appeals took 75 days.

FmHA National Appeals Staff officials attributed delays in hearing appeals to the backlog of cases that occurred at the inception of the appeals process, before there were enough trained hearing officers. In August 1989, the Director of the National Appeals Staff testified before a congressional committee that the appeals work load was greater than anticipated and acknowledged that the office was unable to process appeals on a timely basis. To alleviate these delays, FmHA initiated various actions, such as increasing the number of hearing officers and requiring hearings to be held at central locations so that hearing officers could review more cases in less time. In February 1991, the Director told us she believed that these actions, along with a decrease in the number of new appeals, had resulted in appeal hearings generally being held within 45 days of receipt. However, the National Appeals Staff had not compiled data to substantiate her belief.

When a loan decision is reversed or modified by an appeals hearing officer, FmHA is required to withdraw the adverse decision and reconsider the application. Hearing officers reversed or modified 375 loan decisions in Arkansas, Mississippi, and Texas. As of April 30, 1990, FmHA county offices began action to implement 349 of these hearing officers' decisions. We considered implementation action to have been initiated when the county office contacted the appellant, following the hearing officer's decision, to provide notice that FmHA was reconsidering the loan or loan-servicing application. Implementation actions started within 20 days of the decision dates for 53 percent of the 349 cases and within 45 days for 78 percent of the cases. However, for the remaining cases, the start of implementation actions took longer than 45 days (14 percent) or could not be determined (8 percent). On average, county offices began actions to implement hearing officers' decisions on farmer

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program appeals within 26 days of the decision date and on rural housing program cases within 20 days.

After notifying appellants that their loan applications were being reconsidered, the FmHA county offices we reviewed then took a variety of actions to implement hearing officers' decisions. For example, farmer loan program actions included reevaluating appellants' projections of farm production and finances and reconsidering appellants' applications for assistance. For the rural housing loan program, county offices reconsidered loan eligibility determinations and stopped foreclosure proceedings.

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## Results of Minority and Nonminority Appeals

From July 12, 1988, through December 31, 1989, minorities in Arkansas, Mississippi, and Texas filed 350 appeals of FmHA loan decisions. During the same period nonminorities in these states filed 1,019 appeals. Most appeals—69 percent of the minority appeals and 79 percent of nonminority appeals—involved loan-servicing decisions. Hearings were conducted on about 57 percent of the minority appeals and on about 64 percent of the nonminority appeals. Hearing officers' decisions were issued on about 52 percent of minority appeals and on about 58 percent of the nonminority appeals. When hearing officers issued a decision, they reversed or modified FmHA prior loan decisions in 43 percent of the minority cases and in 50 percent of the nonminority cases.

For farmer program loan appeals in these three states, hearings were conducted on about 59 percent of the minority appeals and on about 64 percent of the nonminority appeals. When hearing officers issued a decision, they reversed or modified FmHA prior loan decisions in about half the cases for both minorities and nonminorities. As of April 30, 1990, hearings were pending for about 23 percent of the minority appeals and about 15 percent of the nonminority appeals. Also, about 18 percent of the minority appeals and about 21 percent of the nonminority appeals were concluded or withdrawn without a hearing.

For rural housing program loan appeals, hearings were held on about 56 percent of the minority appeals and on about 61 percent of the nonminority appeals. When hearing officers issued a decision, they reversed or modified FmHA prior loan decisions in about 40 percent of the minority cases and in about 52 percent of the nonminority cases. As of April 30, 1990, hearings were pending for about 6 percent of the minority appeals and about 9 percent of the nonminority appeals. Also, about 38 percent

of the minority appeals and about 30 percent of the nonminority appeals were concluded or withdrawn without a hearing.

Table 3 summarizes the status and results of appeals by minorities and nonminorities in Arkansas, Mississippi, and Texas.

**Table 3: Appeals of FmHA Loan Decisions by Minorities and Nonminorities in Three States, July 12, 1988-December 31, 1989**

	Farmer program		Housing program	
	Minority	Nonminority	Minority	Nonminority
<b>Decision category:</b>				
Loan-making	33	127	75	91
Loan-servicing	80	678	162	123
<b>Total</b>	<b>113</b>	<b>805</b>	<b>237</b>	<b>214</b>
<b>Appeal results:<sup>a</sup></b>				
Hearing held	67	519	133	131
Appeal concluded/withdrawn <sup>b</sup>	20	169	89	64
Hearing not held	26	117	15	19
<b>Total</b>	<b>113</b>	<b>805</b>	<b>237</b>	<b>214</b>
<b>Appeal decisions:<sup>a</sup></b>				
FmHA upheld	31	232	73	60
FmHA reversed	28	220	47	65
FmHA modified	2	10	2	1
Decision not finalized	6	57	11	5
<b>Total</b>	<b>67</b>	<b>519</b>	<b>133</b>	<b>131</b>

<sup>a</sup>As of April 30, 1990.

<sup>b</sup>Appeals were concluded or withdrawn without a hearing usually because appellants failed to appear at the hearing or reached prior agreement with FmHA.

Additional information on the status and reasons for appeals, timeliness of the appeals process, and results of minority and nonminority appeals is presented in appendixes I, II, and III, respectively.

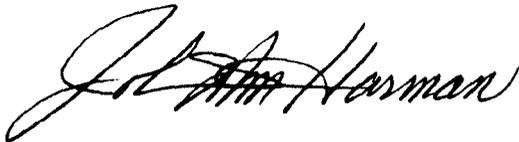
Our work was performed between March 1990 and November 1990 in accordance with generally accepted government auditing standards. We obtained statistical data on all farmer program and rural housing program loan appeals filed in Arkansas, Mississippi, and Texas from July 12, 1988, through December 31, 1989. We obtained data on the status of appeals and on implementation actions when hearing officers reversed or modified FmHA prior loan decisions as of April 30, 1990, in order to have comparable data for the three states reviewed. FmHA officials reviewed a draft of this report for technical accuracy and changes were

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made where appropriate. Our objectives, scope, and methodology are discussed in detail in appendix IV.

As arranged with the Subcommittee office, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time we will send copies to appropriate Senate and House committees; interested Members of Congress; the Secretary of Agriculture; the Administrator, FmHA; the Director, Office of Management and Budget; and to other interested parties. We will also make copies available to others upon request.

If we can be of further assistance, please contact me at (202) 275-5138. Major contributors to this report are listed in appendix V.

A handwritten signature in cursive script, reading "John W. Harman".

John W. Harman  
Director, Food and  
Agriculture Issues

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**Abbreviations**

FmHA	Farmers Home Administration
GAO	General Accounting Office
USDA	U.S. Department of Agriculture

# Status and Reasons for Appeals

From the start of the current FmHA appeal process on July 12, 1988, through December 31, 1989, individuals in Arkansas, Mississippi, and Texas filed 1,369 appeals of FmHA loan decisions. Sixty-seven percent of these appeals involved farmer program loan decisions and 33 percent involved rural housing program loan decisions. Also, as table I.1 shows, 24 percent involved loan making and 76 percent involved loan servicing.

**Table I.1: Appeals of FmHA Loan Decisions Filed in Three States Between July 1988 and December 1989**

State and loan program	Loan-making		Loan-servicing		Total	
	Number	Percent	Number	Percent	Number	Percent
<b>Arkansas:</b>						
Farmer program	30	11.4	233	88.6	263	100
Housing program	60	47.2	67	52.8	127	100
<b>Subtotal</b>	<b>90</b>	<b>23.1</b>	<b>300</b>	<b>76.9</b>	<b>390</b>	<b>100</b>
<b>Mississippi:</b>						
Farmer program	35	13.4	226	86.6	261	100
Housing program	77	32.3	161	67.7	238	100
<b>Subtotal</b>	<b>112</b>	<b>22.4</b>	<b>387</b>	<b>77.6</b>	<b>499</b>	<b>100</b>
<b>Texas:</b>						
Farmer program	95	24.1	299	75.9	394	100
Housing program	29	33.7	57	66.3	86	100
<b>Subtotal</b>	<b>124</b>	<b>25.8</b>	<b>356</b>	<b>74.2</b>	<b>480</b>	<b>100</b>
<b>Three states:</b>						
Farmer program	160	17.4	758	82.6	918	100
Housing program	166	36.8	285	63.2	451	100
<b>Total</b>	<b>326</b>	<b>23.8</b>	<b>1,043</b>	<b>76.2</b>	<b>1,369</b>	<b>100</b>

We reviewed 45 judgmentally selected appeals of FmHA farmer program loan decisions and found that they were filed because of appellants' (1) dissatisfaction with FmHA appraisals of loan security property, which could affect the amount of debt reduction borrowers may receive in the agency's servicing of delinquent loans; (2) belief that FmHA had incorrectly considered the farm production or financial information submitted in their applications for a loan or for loan servicing; (3) objection to FmHA's denial of loan servicing based on their failure to submit a servicing application within the 45-day time period specified in the Agricultural Credit Act of 1987; and (4) disagreement with FmHA's decision that they lacked farming experience and thus were ineligible for a loan. The 25 judgmentally selected appeals of rural housing program decisions that we reviewed were filed primarily to (1) prevent loan foreclosures, (2) seek a reduction in loan payments, or (3) contest FmHA's decisions to

**Appendix I  
Status and Reasons for Appeals**

deny loans based on appellants' poor credit histories or inability to repay the loan.

Table I.2 shows that, as of April 30, 1990, 62 percent of the 1,369 appeals had received a hearing, 25 percent had been concluded or withdrawn without a hearing, and about 13 percent were pending a hearing.

**Table I.2: Status of Appeals Filed in Three States, as of April 30, 1990**

State and loan program	Hearing held		Hearing pending		Appeal withdrawn	
	Number	Percent	Number	Percent	Number	Percent
<b>Arkansas:</b>						
Farmer program	154	58.5	47	17.9	62	23.6
Housing program	79	62.2	9	7.0	39	30.7
<b>Subtotal</b>	<b>233</b>	<b>59.7</b>	<b>56</b>	<b>14.4</b>	<b>101</b>	<b>25.9</b>
<b>Mississippi:</b>						
Farmer program	150	57.5	70	26.8	41	15.7
Housing program	124	52.1	23	9.7	91	38.2
<b>Subtotal</b>	<b>274</b>	<b>54.9</b>	<b>93</b>	<b>18.6</b>	<b>132</b>	<b>26.5</b>
<b>Texas:</b>						
Farmer program	282	71.6	26	6.6	86	21.8
Housing program	61	70.9	2	2.4	23	26.7
<b>Subtotal</b>	<b>343</b>	<b>71.5</b>	<b>28</b>	<b>5.8</b>	<b>109</b>	<b>22.7</b>
<b>Three states:</b>						
Farmer program	586	63.8	143	15.6	189	20.6
Housing program	264	58.5	34	7.5	153	33.9
<b>Total</b>	<b>850</b>	<b>62.1</b>	<b>177</b>	<b>12.9</b>	<b>342</b>	<b>25.0</b>

Appeals of farmer program and rural housing program loan decisions were concluded or withdrawn without a hearing primarily because appellants failed to appear for the hearing or because FmHA and the appellants reached agreement on the loan decision before the hearing. From our review of FmHA files and contacts with the appellants, we were unable to determine why they failed to appear for scheduled hearings. However, the files contained evidence that appellants were given an opportunity to contact hearing officers to explain why they did not appear before the appeals were either concluded or withdrawn.

As of April 30, 1990, hearing officers had issued decisions on 89 percent of the farmer program loan appeals and on 94 percent of the rural housing program loan appeals for which a hearing had been conducted. Table I.3 shows that 396 of these decisions upheld FmHA prior loan decisions and that 375 reversed or modified the loan decisions.

**Appendix I  
Status and Reasons for Appeals**

**Table I.3: Hearing Officers' Decisions on Appeals Filed in Three States, as of April 30, 1990**

State and loan program	Upheld <sup>a</sup>	Reversed	Modified	Total
<b>Arkansas:</b>				
Farmer program	62	79	2	143
Housing program	40	36	0	76
<b>Subtotal</b>	<b>102</b>	<b>115</b>	<b>2</b>	<b>219</b>
<b>Mississippi:</b>				
Farmer program	79	46	3	128
Housing program	63	51	2	116
<b>Subtotal</b>	<b>142</b>	<b>97</b>	<b>5</b>	<b>244</b>
<b>Texas:</b>				
Farmer program	122	123	7	252
Housing program	30	25	1	56
<b>Subtotal</b>	<b>152</b>	<b>148</b>	<b>8</b>	<b>308</b>
<b>Three states:</b>				
Farmer program	263	248	12	523
Housing program	133	112	3	248
<b>Total</b>	<b>396</b>	<b>360</b>	<b>15</b>	<b>771</b>

<sup>a</sup>Appellants requested that FmHA state directors and/or the National Appeals Staff Director review 119 of the upheld decisions. As of April 30, 1990, review decisions had been issued on 76 of these requests, which resulted in 12 prior loan decisions being reversed. These 12 cases are not included with the reversed decisions because the reversal was made by someone other than a hearing officer.

Hearing officers reversed or modified FmHA farmer program loan decisions for various reasons, including the following: (1) county offices used appraisals that were outdated, did not properly consider the condition of the property or equipment reviewed, or did not properly consider comparable properties; (2) county offices could not support their assertion that borrowers had not acted in "good faith" in meeting the terms of their loan agreements with FmHA; (3) county offices used inaccurate income, expense, production, or asset values in evaluating the reasonableness of appellants' projections of farm production and finances; (4) county offices or county committees had not followed FmHA regulations or procedures in reaching loan decisions; or (5) county offices or county committees had failed to recognize that appellants' farm experiences or training were adequate to qualify them for loans. Also, in some cases appellants presented new information at the appeal hearing, which resulted in hearing officers' reversing or modifying the FmHA prior loan decisions.

Hearing officers reversed or modified FmHA rural housing program loan decisions for various reasons, including that (1) county offices had not followed FmHA regulations or procedures in servicing appellants' loans,

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**Appendix I  
Status and Reasons for Appeals**

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e.g., delinquency notices were not issued at required time intervals or contained inaccurate amounts, and (2) county offices had not properly considered appellants' credit histories in their loan decisions, e.g., information on credit reports did not establish a pattern of poor debt repayment.

# Timeliness of FmHA Appeals Process

We obtained information on how long it took hearing officers to review appeals and how long it took FmHA county offices to begin implementing hearing officers' decisions that reversed or modified their prior loan decisions. A discussion of both time frames follows.

## Timeliness of Hearings

FmHA regulations state that an appeal hearing should normally be conducted within 45 days after an appeal is received. As of April 30, 1990, appeal hearings had been conducted for 850 of the appeals filed in Arkansas, Mississippi, and Texas from July 12, 1988, through December 31, 1989.<sup>1</sup> For 677 of the 850 cases, more than 45 days elapsed before a hearing was conducted, including 132 cases which took more than 6 months. For the 850 cases, an average of 108 days elapsed between the date the appeal was received and the date of the hearing.

Hearings were held for 586 farmer program loan appeals and 264 rural housing program loan appeals. Table II.1 shows the number of days required for these appeals to receive a hearing.

**Table II.1: Number of Days From Appeal Receipt Date to Hearing Date, as of April 30, 1990**

Loan program	Hearing held	Number of days from receipt to hearing			
		45 or less	46-90	91-180	More than 180
Farmer program	586	84	126	256	120
Housing program	264	89	101	62	12
<b>Total</b>	<b>850</b>	<b>173</b>	<b>227</b>	<b>318</b>	<b>132</b>

On average, farmer program loan appeals took 122 days and rural housing program loan appeals took 75 days for a hearing.

FmHA National Appeals Staff officials attributed delays in hearing appeals to a backlog of appeals that occurred at the inception of the appeals process, before there were enough trained hearing officers. In August 1989, the Director, National Appeals Staff, testified before the Subcommittee on Agricultural Credit, Senate Committee on Agriculture, Nutrition, and Forestry, on the inability of the appeals staff to handle

<sup>1</sup>We used an April 30, 1990, cut-off date in order to have comparable data for the three states reviewed. This date would have allowed the appeals staff time to conduct hearings and issue decisions according to the time frames provided in FmHA regulations on all appeals filed from July 12, 1988, the inception of the current appeals process, through December 31, 1989, and for county offices to initiate actions resulting from hearings.

the work load on a timely basis. To alleviate delays in conducting hearings, FmHA initiated various actions, such as increasing the number of hearing officers and requiring hearings to be held at central locations so that hearing officers could review more cases in less time. Also, FmHA state offices were required to review appeals when they were initially filed to identify cases in which incorrect loan decisions may have been made.

In February 1991, the Director told us that she believed these actions, along with a decrease in the number of new appeals, had resulted in appeal hearings generally being held within 45 days of filing. However, the National Appeals Staff had not compiled data to substantiate her belief. It had compiled national statistical data from September through December 1990 which showed that an average of 82 days elapsed from the time an appeal was assigned to a hearing officer to the time a decision was issued. While this time frame would tend to indicate that some hearings were held on a more timely basis, the data also showed that 210 appeals had been assigned to hearing officers for more than 3 months without a hearing, or, if a hearing had been held, without a decision.

## Timeliness of Implementing Appeal Hearing Decisions

When a loan decision is reversed or modified by an appeals hearing officer, FmHA is required to withdraw the adverse decision and reconsider the loan application. As of April 30, 1990, hearing officers reversed or modified 375 FmHA loan decisions. Table II.2, which is based on information FmHA provided us, shows that action was started on 93 percent of the reversed decisions.

**Table II.2: Number of Actions Started by FmHA County Offices to Implement Hearing Officers' Decisions, as of April 30, 1990**

Loan program	Reversed decisions	Implementation action started	
		Yes	No
Farmer program	260	235	25 <sup>a</sup>
Housing program	115	114	1
<b>Total</b>	<b>375</b>	<b>349</b>	<b>26</b>

<sup>a</sup>For eight farmer program loan reversals, further action was not needed for various reasons, e.g., the loan was no longer needed since the crop planting period had passed.

We considered implementation action to have been initiated if the FmHA county office contacted the appellant in order to carry out the hearing officer's ruling. About 78 percent of the implementation actions occurred within 45 days of hearing officers' decision dates. However, as

**Appendix II  
Timeliness of FmHA Appeals Process**

table II.3 shows, in 47 cases the contacts were not made until more than 45 days had elapsed. We did not determine the reasons for the delay in implementing the hearing officers' decisions on these 47 appeals.

**Table II.3: Number of Days FmHA County Offices Took to Begin Implementing Hearing Officers' Decisions, as of April 30, 1990**

Loan program	Action started	Number of days to start action				
		20 or less	21- 45	46- 90	More than 90	Unknown
Farmer program	235	124	59	21	13	18
Housing program	114	61	29	11	2	11
<b>Total</b>	<b>349</b>	<b>185</b>	<b>88</b>	<b>32</b>	<b>15</b>	<b>29</b>

After notifying appellants that their loan applications were being reconsidered, the FmHA county offices we reviewed then took a variety of actions to implement hearing officers' decisions. Farmer loan program actions were (1) reevaluating appellants' projections of farm production and finances, (2) reconsidering appellants' applications for assistance, and (3) helping appellants to complete FmHA-required paperwork. For the rural housing loan program, loan eligibility determinations were reconsidered and foreclosure proceedings were stopped.

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# Results of Minority and Nonminority Appeals

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Of the 1,369 appeals filed in Arkansas, Mississippi, and Texas from July 12, 1988, through December 31, 1989, 26 percent were filed by minorities and 74 percent were filed by nonminorities. Most farmer program loan appeals were filed by nonminorities; about an equal number of rural housing program loan appeals were filed by minorities and by nonminorities. For both programs, appeals by both minorities and nonminorities mostly involved loan-servicing decisions.

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## Types of Appeals

Appeals by minorities and nonminorities were filed in about the same proportion as each group received FmHA farmer program and rural housing program loans during fiscal year 1989. For example, minorities filed about 21 percent of the farmer program loan-making appeals and 45 percent of the rural housing program loan-making appeals. Minorities received 11 percent of the farmer program loans and 47 percent of the rural housing loans made in fiscal year 1989.

Table III.1 shows the types of appeals filed by minorities and nonminorities in Arkansas, Mississippi, and Texas.

**Appendix III  
Results of Minority and Nonminority Appeals**

**Table III.1: Appeals of FmHA Loan Decisions Filed in Three States by Minorities and Nonminorities Between July 1988 and December 1989**

State and loan program	Loan-making		Loan-servicing		Total	
	Number	Percent	Number	Percent	Number	Percent
<b>Arkansas:</b>						
Farmer program						
Minority	7	13.7	44	86.3	51	100
Nonminority	23	10.8	189	89.2	212	100
<b>Subtotal</b>	<b>30</b>	<b>11.4</b>	<b>233</b>	<b>88.6</b>	<b>263</b>	<b>100</b>
Housing program						
Minority	21	43.8	27	56.2	48	100
Nonminority	39	49.4	40	50.6	79	100
<b>Subtotal</b>	<b>60</b>	<b>47.2</b>	<b>67</b>	<b>52.8</b>	<b>127</b>	<b>100</b>
<b>Mississippi:</b>						
Farmer program						
Minority	12	40.0	18	60.0	30	100
Nonminority	23	10.0	208	90.0	231	100
<b>Subtotal</b>	<b>35</b>	<b>13.4</b>	<b>226</b>	<b>86.6</b>	<b>261</b>	<b>100</b>
Housing program						
Minority	41	29.3	99	70.7	140	100
Nonminority	36	36.7	62	63.3	98	100
<b>Subtotal</b>	<b>77</b>	<b>32.3</b>	<b>161</b>	<b>67.7</b>	<b>238</b>	<b>100</b>
<b>Texas:</b>						
Farmer program						
Minority	14	43.7	18	56.3	32	100
Nonminority	81	22.4	281	77.6	362	100
<b>Subtotal</b>	<b>95</b>	<b>24.1</b>	<b>299</b>	<b>75.9</b>	<b>394</b>	<b>100</b>
Housing program						
Minority	13	26.5	36	73.5	49	100
Nonminority	16	43.2	21	56.8	37	100
<b>Subtotal</b>	<b>29</b>	<b>33.7</b>	<b>57</b>	<b>66.3</b>	<b>86</b>	<b>100</b>
<b>Three states:</b>						
Farmer program						
Minority	33	29.2	80	70.8	113	100
Nonminority	127	15.8	678	84.2	805	100
<b>Total</b>	<b>160</b>	<b>17.4</b>	<b>758</b>	<b>82.6</b>	<b>918</b>	<b>100</b>

(continued)

**Appendix III  
Results of Minority and Nonminority Appeals**

State and loan program	Loan-making		Loan-servicing		Total	
	Number	Percent	Number	Percent	Number	Percent
Housing program						
Minority	75	31.6	162	68.4	237	100
Nonminority	91	42.5	123	57.5	214	100
<b>Total</b>	<b>166</b>	<b>36.8</b>	<b>285</b>	<b>63.2</b>	<b>451</b>	<b>100</b>
All appeals						
Minority	108	30.9	242	69.1	350	100
Nonminority	218	21.4	801	78.6	1,019	100
<b>Total</b>	<b>326</b>	<b>23.8</b>	<b>1,043</b>	<b>76.2</b>	<b>1,369</b>	<b>100</b>

## Status of Appeals

There were some variations in the status of appeals in some categories of comparison between minorities and nonminorities. The largest variation involved the percent of minorities compared with nonminorities in Arkansas who had hearings pending for farmer program loan decisions—39 percent of the hearings for minority farmer program appeals were pending but only 13 percent of the nonminority appeals were pending. This variation existed primarily because many of the minorities with appeals pending were involved in a separate discrimination complaint that had been filed with USDA. Because of the discrimination complaint and its possible impact on the appeals, FmHA's National Appeals Staff, after consulting with FmHA's Equal Opportunity Staff, suspended processing the appeals.<sup>1</sup> Officials of the National Appeals Staff and FmHA's Equal Opportunity Staff told us that the current policy is to continue processing appeals if a discrimination claim is filed. According to the Deputy Director of the National Appeals Staff, the current policy is not to suspend processing any appeal without the written authorization of the FmHA Administrator.

Table III.2 shows the status of appeals filed by minorities and nonminorities in Arkansas, Mississippi, and Texas, as of April 30, 1990.

<sup>1</sup>In May 1990, USDA's Office of Advocacy and Enterprise ruled in FmHA's favor on the discrimination suit filed by Arkansas minority farmers. As a result of this ruling, FmHA's National Appeals Staff reactivated the appeals cases for the 14 appellants in May 1990.

**Appendix III  
Results of Minority and Nonminority Appeals**

**Table III.2: Status of Appeals Filed in Three States by Minorities and Nonminorities Between July 1988 and December 1989**

State and loan program	Hearing held		Hearing pending		Appeal withdrawn	
	Number	Percent	Number	Percent	Number	Percent
<b>Arkansas:</b>						
Farmer program						
Minority	25	49.0	20	39.2	6	11.8
Nonminority	129	60.8	27	12.7	56	26.4
<b>Subtotal</b>	<b>154</b>	<b>58.5</b>	<b>47</b>	<b>17.9</b>	<b>62</b>	<b>23.6</b>
Housing program						
Minority	26	54.2	4	8.3	18	37.5
Nonminority	53	67.1	5	6.3	21	26.6
<b>Subtotal</b>	<b>79</b>	<b>62.2</b>	<b>9</b>	<b>7.0</b>	<b>39</b>	<b>30.7</b>
<b>Mississippi:</b>						
Farmer program						
Minority	14	46.7	6	20.0	10	33.3
Nonminority	136	58.9	64	27.7	31	13.4
<b>Subtotal</b>	<b>150</b>	<b>57.5</b>	<b>70</b>	<b>26.8</b>	<b>41</b>	<b>15.7</b>
Housing program						
Minority	72	51.4	10	7.1	58	41.4
Nonminority	52	53.1	13	13.3	33	33.7
<b>Subtotal</b>	<b>124</b>	<b>52.1</b>	<b>23</b>	<b>9.7</b>	<b>91</b>	<b>38.2</b>
<b>Texas:</b>						
Farmer program						
Minority	28	87.5	0	0.0	4	12.5
Nonminority	254	70.2	26	7.2	82	22.7
<b>Subtotal</b>	<b>282</b>	<b>71.6</b>	<b>26</b>	<b>6.6</b>	<b>86</b>	<b>21.8</b>
Housing program						
Minority	35	71.4	1	2.0	13	26.5
Nonminority	26	70.2	1	2.7	10	27.0
<b>Subtotal</b>	<b>61</b>	<b>70.9</b>	<b>2</b>	<b>2.4</b>	<b>23</b>	<b>26.7</b>
<b>Three states:</b>						
Farmer program						
Minority	67	59.3	26	23.0	20	17.7
Nonminority	519	64.5	117	14.5	169	21.0
<b>Total</b>	<b>586</b>	<b>63.8</b>	<b>143</b>	<b>15.6</b>	<b>189</b>	<b>20.6</b>

(continued)

**Appendix III**  
**Results of Minority and Nonminority Appeals**

State and loan program	Hearing held		Hearing pending		Appeal withdrawn	
	Number	Percent	Number	Percent	Number	Percent
Housing program						
Minority	133	56.1	15	6.3	89	37.6
Nonminority	131	61.2	19	8.9	64	29.9
<b>Total</b>	<b>264</b>	<b>58.5</b>	<b>34</b>	<b>7.5</b>	<b>153</b>	<b>33.9</b>
All appeals						
Minority	200	57.1	41	11.7	109	31.1
Nonminority	650	63.8	136	13.3	233	22.9
<b>Total</b>	<b>850</b>	<b>62.1</b>	<b>177</b>	<b>12.9</b>	<b>342</b>	<b>25.0</b>

## Results of Appeals

As of April 30, 1990, hearing officers had issued decisions on 771 of the 850 appeals for which a hearing had been conducted. Hearing officers reversed or modified the prior loan decisions in 43 percent of the minority cases and in 50 percent of the nonminority cases. There were some variations in the results of hearing officers' decisions in some categories of comparison between minorities and nonminorities. The highest percentage of variation involved rural housing program loan decisions in Arkansas that were reversed—36 percent of the minority rural housing program loan appeals resulted in reversals while 53 percent of the nonminority appeals resulted in reversals.

Table III.3 shows the results of hearing officers' decisions on appeals filed by minorities and nonminorities in Arkansas, Mississippi, and Texas, as of April 30, 1990.

**Appendix III  
Results of Minority and Nonminority Appeals**

**Table III.3: Hearing Officers' Decisions on Appeals Filed in Three States by Minorities and Nonminorities Between July 1988 and December 1989**

State and loan program	Upheld		Reversed		Modified	
	Number	Percent	Number	Percent	Number	Percent
<b>Arkansas:</b>						
Farmer program						
Minority	9	37.5	14	58.3	1	4.2
Nonminority	53	44.5	65	54.6	1	0.8
<b>Subtotal</b>	<b>62</b>	<b>43.4</b>	<b>79</b>	<b>55.2</b>	<b>2</b>	<b>1.4</b>
Housing program						
Minority	16	64.0	9	36.0	0	0.0
Nonminority	24	47.1	27	52.9	0	0.0
<b>Subtotal</b>	<b>40</b>	<b>52.6</b>	<b>36</b>	<b>47.4</b>	<b>0</b>	<b>0.0</b>
<b>Mississippi:</b>						
Farmer program						
Minority	8	61.5	5	38.5	0	0.0
Nonminority	71	61.7	41	35.7	3	2.6
<b>Subtotal</b>	<b>79</b>	<b>61.7</b>	<b>46</b>	<b>35.9</b>	<b>3</b>	<b>2.3</b>
Housing program						
Minority	40	59.7	25	37.3	2	3.0
Nonminority	23	46.9	26	53.1	0	0.0
<b>Subtotal</b>	<b>63</b>	<b>54.3</b>	<b>51</b>	<b>44.0</b>	<b>2</b>	<b>1.7</b>
<b>Texas:</b>						
Farmer program						
Minority	14	58.3	9	37.5	1	4.2
Nonminority	108	47.4	114	50.0	6	2.6
<b>Subtotal</b>	<b>122</b>	<b>48.4</b>	<b>123</b>	<b>48.8</b>	<b>7</b>	<b>2.8</b>
Housing program						
Minority	17	56.7	13	43.3	0	0.0
Nonminority	13	50.0	12	46.2	1	3.8
<b>Subtotal</b>	<b>30</b>	<b>53.6</b>	<b>25</b>	<b>44.6</b>	<b>1</b>	<b>1.8</b>
<b>Three states:</b>						
Farmer program						
Minority	31	50.8	28	45.9	2	3.3
Nonminority	232	50.2	220	47.6	10	2.2
<b>Total</b>	<b>263</b>	<b>50.3</b>	<b>248</b>	<b>47.4</b>	<b>12</b>	<b>2.3</b>

(continued)

**Appendix III**  
**Results of Minority and Nonminority Appeals**

State and loan program	Upheld		Reversed		Modified	
	Number	Percent	Number	Percent	Number	Percent
Housing program						
Minority	73	59.8	47	38.5	2	1.6
Nonminority	60	47.6	65	51.6	1	0.8
<b>Total</b>	<b>133</b>	<b>53.6</b>	<b>112</b>	<b>45.2</b>	<b>3</b>	<b>1.2</b>
All appeals						
Minority	104	56.8	75	41.0	4	2.2
Nonminority	292	49.7	285	48.4	11	1.9
<b>Total</b>	<b>396</b>	<b>51.4</b>	<b>360</b>	<b>46.7</b>	<b>15</b>	<b>1.9</b>

One of the reasons hearing officers reversed or modified FmHA farmer program loan decisions for both minorities and nonminorities was that county offices had not properly appraised appellants' property or equipment in reaching loan-servicing decisions. Another primary reason for reversing decisions for minorities was that FmHA failed to recognize that appellants' farm experience or training was adequate to qualify them for loans. Other primary reasons for reversing decisions for nonminorities were that county offices (1) could not support their assertions that borrowers had not acted in "good faith" in meeting the terms of their FmHA loan agreements, (2) used inaccurate information in evaluating the reasonableness of appellants' projections of farm production and finances, and (3) did not comply with FmHA regulations or operating procedures in reaching loan decisions.

Hearing officers' reversal or modification of FmHA rural housing program loan decisions for both minorities and nonminorities centered around two reasons: (1) FmHA regulations or operating procedures were not complied with in servicing appellants' loans, e.g., delinquency notices were not issued at required time intervals or contained inaccurate amounts, and (2) appellants' credit histories were not properly considered in the decision.

As of April 30, 1990, FmHA had started actions on 96 percent of the reversed decisions for minorities and on 92 percent of the reversed decisions for nonminorities. We considered implementation action to have been started if the FmHA county office contacted the appellant in order to carry out the hearing officer's ruling. Implementation action was started within 20 days of the hearing officers' decision date for 53 percent of both the minority and nonminority decisions that were reversed. Implementation action was started within 45 days for an additional 32

percent of the minority decision reversals and 23 percent of the nonminority decision reversals. About 9 percent of the reversed decisions for minorities and about 15 percent for nonminorities had implementation actions started more than 45 days after the decision date. We could not determine the start of implementation actions for the remaining minority and nonminority cases.

# Objectives, Scope, and Methodology

On February 20, 1990, the Chairman, Government Information, Justice, and Agriculture Subcommittee, House Committee on Government Operations, and Representative Mike Espy requested that we review FmHA's process for handling and resolving appeals of loan-making and loan-servicing decisions, including FmHA's implementation of the process and the treatment of minorities in the process. On the basis of the request and subsequent discussions with the Subcommittee office, we focused our work on the

- status of FmHA farmer loan program and rural housing loan program appeals,
- timeliness of holding appeal hearings and implementing appeal decisions, and
- results of minority and nonminority appeals.

As requested, we focused on appeals in three states—Arkansas, Mississippi, and Texas.

We compiled statistical data on the number and status of all farmer program and rural housing program appeals filed in Arkansas, Mississippi, and Texas from July 12, 1988, through December 31, 1989. These data, based on information provided by FmHA state office officials in each of the three states and the National Appeals Staff, included information on whether the appeals involved farmer program or rural housing program loan-making or loan-servicing decisions; whether an appeal hearing had been held and if hearing officers upheld, reversed, or modified FmHA loan decisions; the dates that appeals were received, hearings were held, hearing officers made decisions, and county offices implemented decisions that reversed or modified their loan decisions; and the appellant's race.

Additionally, we obtained and reviewed hearing officers' letters for all reversed and modified decisions in the three states to determine the reasons for their decisions. We used an April 30, 1990, cut-off date for data on the status of appeals and implementation actions when hearing officers reversed or modified FmHA loan decisions in order to have comparable data for the three states reviewed. Additionally, this date would have allowed the appeals staff time to conduct hearings and issue decisions according to the time frames provided in FmHA regulations on all appeals filed from July 12, 1988, the inception of the current appeals process, through December 31, 1989, and for county offices to initiate actions resulting from hearings.

To compile specific information on why appeals were filed and what actions county offices took when hearing officers reversed or modified loan decisions, and to verify the data that FmHA program and appeals offices had provided us, we reviewed loan files and loan applications at 12 FmHA county offices which covered 13 separate counties that we selected in Arkansas, Mississippi, and Texas. To select the county offices within each state, we first selected the FmHA district with the largest number of minority appeals relating to FmHA farmer program loans filed from July 12, 1988, through December 31, 1989. Within that district, we then selected the two FmHA county offices with the largest number of minority appeals involving farmer program loans and the two FmHA county offices with the largest number of minority appeals involving rural housing program loans. If the selected county offices for each program did not have any nonminority appellants, we selected from the same FmHA district another county office that had the highest number of nonminority appellants for that program.

We amended our methodology for Texas because the district with the largest number of minority farmer program appeals did not have any minority rural housing program appeals. Therefore, in order to compare minority and nonminority appeals of rural housing program loan decisions, we selected an additional Texas district on the basis of the largest number of rural housing program minority appeals. Within the second district, we reviewed loan files and loan applications at a county office that had minority and nonminority appeals of farmer program and rural housing program loan decisions.

We reviewed five FmHA county offices in Mississippi, three in Arkansas, and four in Texas. One of the FmHA county offices in Texas covered two separate counties. At each county office up to three minority and three nonminority appeals were reviewed if the county office had at least that many appeals. If there were more than three minority or nonminority appeals at the county offices, we judgmentally selected appeals to review. For the three states, we reviewed a total of 20 minority and 25 nonminority appeals involving farmer program loans and 17 minority and 8 nonminority appeals involving rural housing program loans.

We also reviewed statutes, FmHA regulations, operating instructions, and other documents relating to the FmHA appeals process. Further, we discussed the appeals process with FmHA national office program officials in Washington, D.C., and state, district, and county office officials in Arkansas, Mississippi, and Texas. We also discussed the process with appeals office officials at the national level and at the area office who

had responsibility for these three states. Additionally, when visiting FmHA county offices in the three states, we contacted selected minority and nonminority appellants to obtain their views on the FmHA appeal process.

Although appellants may request that FmHA state directors and/or the National Appeals Staff Director review hearing officers' decisions upholding prior loan decisions, we focused the part of our review covering the results of appeal decisions on those made by hearing officers. Therefore, our statistics do not reflect any subsequent decisions that differ from hearing officers' decisions.

The results of our work cannot be projected to the nation overall. We conducted our review from March 1990 through November 1990. We performed our work in accordance with generally accepted government auditing standards.

FmHA officials reviewed a draft of this report for technical accuracy and changes were made as appropriate.

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